

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department -Khammam District- Revision Petition filed by Sri Acha Rajaiah S/o Pedda Mallaiah R/o Nelki Venkatapuram(V), Dandepalli(M), Adilabad District aggrieved by the orders of the Addl.Agent to Govt., Utnoor, Adilabad District in CMA.No.A4/LTR/03/2005 dt.06.03.2007.- Dismissed - Orders - Issued

TRIBAL WELFARE (LTR)DEPARTMENT

G.O.Ms.No. 28

Dated: 17-05-2017
Read the following:-

- 1) Revision Petition filed by Sri Acha Rajaiah S/o Pedda Mallaiah R/o Nelki Venkatapuram(V), Dandepalli(M), Adilabad District dated 28.03.2007.
 - 2) Govt.Memo.No. 2271/LTR-2/2007-1, dt 11.04.2007.
 - 3) From the Addl.Agent to Government & Project Officer, ITDA, Utnoor Adilabad District Lr.No. A4/03/2005, dt. 28.04.2007.
- 0o0-

ORDER

In the reference 1st read above, Sri Acha Rajaiah S/o Pedda Mallaiah R/o Nelki Venkatapuram(V), Dandepalli(M), Adilabad District aggrieved by the orders of the Addl.Agent to Govt., Utnoor, Adilabad District in CMA.No.A4/LTR/03/2005, dt.06.03.2007 in respect of land to an extent of Ac.1.78 cts in Sy.No.94/E situated at Nelki Venkatapur Village, Dandepally Mandal, Adilabad District.

2. In the reference 2nd read above, the Project Officer & Addl. Agent to Government, Utnoor, Adilabad District was requested to furnish Para Wise Remarks and connected case records and in the reference 3rd read above the Addl. Agent to Government, Utnoor, Adilabad District has furnished Para Wise Remarks and connected case records.

3. The Main grounds of the case are as follows:

- On the basis of the list furnished by the Dy.Tahsildar office of the Special Dy.Collector (TW), Utnoor this case is registered by the Spl.Dy.Collector(T.W), on the ground that, Non Tribal is in possession of land in an agency village. Hence order was passed for his ejectment from the land and to take the same into Govt.custody.
- The order under appeal is bad in law, un-tenable, to judicial scrutiny, and contrary to the principles of natural justice, hence the same is liable to be set-aside.
- The learned lower court failed to see, and appreciate the Principle of law and intendment of the Government, with regard to S.A.L.T., Regulation 1970 between Non Tribal to Non Tribal, and ought to have discussed the loss to any Tribal, or to the Government.
- The 3 page of judgment nowhere discussed about the legal position of this Regulation, but came to an opinion, that the sale Transaction has taken place after 3-2-1970. Hence it is violation of Regulation 1 of 1970.
- The learned lower court failed to see, that in the instant case, the land in question in only Ac. 1-78 gts, and that he comes under the definition of a small and poor farmer, and hence ought not have taken away the land in question, making this appellants as landless poor.
- The appellant purchased Ac. 1-78 gts land out of Sy.No.94/E situated at Village Nelki Venkatapur of Dandepalli Mandal on 15-04-1965 from Padidam osayya for a consideration of Rs.950-00(Rupees Nine Hundred and Fifty) and the said Paidam posayya delivered the position of the above land on the same day after receiving entire consideration amount to the appellant since then the appellant is in the position of above land.
- The learned lower court also failed to see that this Appellant was in possession Ac. 1-78 gts of land bearing Sy.No.94/E Nelki Venkatapur village of Dandepally Mandal much prior to the regulation 970 came into force and ought to have given chance this appellant to prove his case. Admittedly the appellant is a poor and rustic and uneducated villager, who does not know the intricacies of law. He being a bonafied occupier of the land in question never bothered to see the entries being maintained by the Patwari in revenue records.
- That, after coming into possession of the land in question, this appellant, had invested a lot of amount for developing the land.

(Contd..2)

::2::

- There are three villages by name Venkatapur in Luxxettipet Taluq. One is Nelki Venkatapur in Dandepalli circle, second in Zenda Venkatapur in Luxettipur circle and Third is Venkatapur in Mandamarri circle. In the Scheduled areas part – B states order 1950 there is only a mention of the name of the village as Venkatapur, unless there is statutory clarification in this regard the scheduled area land transfer regulation 1959 or any such act cannot be applied to the lands of Nelki Venkatapur.
- That, this appeal is under Agency rules, hence a court fee of Rs.5/- is paid under schedule II – Art. 3(ii) of A.P.C.F. and S.V.Act, 1956, which is sufficient.
- That, the appeal is within limitation under Rule 8(2) of A.P.S.A.L.T.Rules,

4 The remarks of the Addl. Agent to Government, Bhadrachalam on the revision petition are as under:

- The Spl. Dy. Collector (TW), Utnoor has passed the order in Case No.TWA2/30/2004 dt:29-12-2004 that the petitioner has contravene the agency rules in Agency tract by purchasing the immovable property in respect of Sy.No.94/E to an extent acre 0-80cents and 1-78 cents on stamp paper worth of Rs. 0-50 paisesiuated at Nelki Venakapur village of Dandepally Mandal of Adilabad District. The petitioner deposed that he above suit property was purchased through ordinary sale deed on 15-04-1965. The lower court did not consider the plea and ordered to take the land into Government custody. Aggrieved by the orders of the Spl. Dy. Collector (TW), Utnoor the petitioner preferred an appeal before the Addl.Agent to Government and PO, ITDA, Utnoor. The case has been registered No.A4/LTR/03/2005. The petitioned failed to proved his transaction made prior to the cutoff date i.e 03-02-1970 with revenue records i.e pahanies etc. Hence the Addl.Agent to Govt. and PO, ITDA, Utnoor has gone through the records and come to a conclusion and upheld the order of the lower court Spl. Dy. Collector (TW), Utnoor and dismissed the claim of the petitioner's petition and the suit land reminded to government custody.

The replies to the grounds filed by the petitioner are as under:-

- The petitioner contravened by purchasing the immovable property Sy.No.94/E & 94/E to an extent acre 0-80cents and 1-78 cents situated at Nelki Venakapur village of Dandepally Mandal through agreement of sale. For the stated sale transaction in the year 1965, by the appellant he did not file the documentary evidence. The transaction in this case is proved as per pahani 1985-86. The transferor and transferee and non-tribals. On this contravention the lower court has initiated the case and ordered to take the land into Govt. custody. Aggrieved by the order of the lower court passed in Case No.TWA1/30/2004 dt:29-12-2004, the petitioner filed an appeal before the Addl.Agent to Govt. and PO, ITDA Utnoor. After scrutinizing the case the orders were passed properly and dismissed the claim of the petitioner petition and uphold the order of the lower court. That the orders passed by the lower court and the appellate authority is under the provision of the A.P Scheduled Area Land Transfer Regulation 1959 as amended Regulation 1 of 1970.
- The petitioner is telling lies that the petitioner actually purchase the above suit land after 03-02-1970 in the year 1985-86. The pahani records are evident to this transactions, there are no records for the transaction of the above suit land to have occurred in the year 1965, the petitioner also failed to prove the transaction made on the date. Mere telling that the transaction made in the year 1965 can not be believed. Hence the transaction made in between non-tribal to another non-tribal is found after the cutoff date, such transaction made in agency tract after cutoff the date in agency tract is found in contravention of A.P. Scheduled Areas Land Transfer Regulation 1959 as amended Regulation 1 of 1970.
- The petitioner failed to prove the transaction made in the year 1965 hence the claim of purchase of land prior to cutoff date 03-02-1970 is not tenable. Further the claim of the petitioner that the village Nelki Venkatapur is not come under Scheduled are is also not tenable. There were two villages with same name enaktapur was declared as agency area under Part-B stated order 1950 in erstwhile Taluq Luxettipet, District Adilabad. Due to same name in one Taluq the confusion were arosen hence the people of the village Venkatapur of Dandepally Mandal added "Nelki" only to distinguish and for clear identification. Hence on contravention of Agency rules the action of the agency courts are taken under the provision of A.P Scheduled Areas Land Transfer Regulation 1959 as amended Regulation 1 of 1970.
- The authorities particularly in this case have gone through the rules and regulations of A.P Scheduled Areas Land Transfer Regulation 1959 as amended Regulation 1 of 1970.

::03::

- The order passed in this case is not surmise, but in the light of agency laws.
- That the petitioner on the whole is telling lies in the Revision Petition and trying to escape from the agency law by telling lies as it is a general practice of the non-tribals in the agency areas that they are contravening the agency laws in the agency tract by purchasing the immovable properties and when the matter came in to the picture they are trying to escape them from the agency laws. Hence the contents of the Petitioner mention in the Revision Petition are not believable. Therefore, requested to set aside the claim of the petitioner in the interest of the justice with cost.
5. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Addl.Agent to Govt it is observed that;
- The Revision Petitioner's main plea is that he has purchased the land to an extent of Ac.1-78 cents in Sy.No.94 E in Nelki Venkatapur (V), Dandepally(M), Adilabad district through a sada sale deed dt:15.04.1965 from Sri Padidam Pochaiah S/o Ellaiah R/o Nelkivenkatapur (V) and that he has been in continuous position from that date and hence the transfer is not hit by Act 1 of 59 read with Act 1 of 70 and requested to set aside the orders of Addl.Agent to Govt.
 - Nelki Venkatapur is in scheduled area originally part of Laxettipet Taluk. Hence his claim that the village is not in schedule area is not correct.
 - His name is found in pahanis for the years 1985-86, 93-94 and 2000-01 as possessor /occupant. Sri Padidam Pochaiah is shown as pattedar. The Revision Petitioner could not prove his right at least as occupant for continuous period from 1965 to till the date of appeal. Even he could not produce any document to prove that he got ownership rights on the land in question. The sada sale agreement cannot be treated as sale deed which does not confer any rights on the land in question.
6. Government after careful examination of the matter here by dismissed the appeal of the Revision Petitioner filed by Sri Acha Rajaiah S/o Pedda Mallaiah R/o Nelki Venkatapuram(V), Dandepalli(M), Adilabad District and hereby upheld the orders of the Addl.Agent to Government and Project Officer, ITDA, Utnoor, Adilabad District dt.06.03.2007 in CMA.No.A4/LTR/03/2005.
7. The District Collector, Adilabad/Nirmal/Mancherial shall take necessary further action accordingly. The original case records received in the reference 3rd read above are returned herewith to the Project Officer, ITDA, Utnoor, Adilabad District

Comment [a1]:

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

BENHUR MAHESH DUTT EKKA,
SECRETARY TO GOVERNMENT

To
Sri Acha Rajaiah S/o Pedda Mallaiah
R/o Nelki Venkatapuram(V), Dandepalli(M), Adilabad District
The District Collector, Adilabad/Niraml/Mancherial Districts.
The Project Officer, ITDA Utnoor, Adilabad District (w.e.)
Copy to :
The Special Dy.Collector (TW), Utnoor, Adilabad District for information and necessary action.
The Tahsildar, Dandepalli(M), Adilabad District for necessary action.
P.S to M(TW)/P.S. to Secretary(TW)
SF/SC

// FORWARDED:: BY ORDER//

SECTION OFFICER